

GLOBAL CABLING & AFFILIATED
TECHNOLOGIES, INC.

VABCA-6936

CONTRACT NO. V101(93)P-1543

VA MEDICAL CENTER
WEST HAVEN, CONNECTICUT

Denise M. Francis, Executive Vice President and *J. Robert Williams*, Chairman of the Board and Principal, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER OF DISMISSAL

1. On December 2, 2002, the Board docketed Global Cabling & Affiliated Technologies' appeal of the Contracting Officer's Termination for Default dated August 29, 2002.
2. In previous correspondence, the Board had asked Mr. Williams to provide documentation which showed his standing as an officer of the company. On February 5, 2004, the Board issued a PREHEARING ORDER AND ORDER TO SHOW CAUSE scheduling a telephone conference on February 10, 2004, and again instructing Appellant to file documentation concerning his standing. Neither Mr. Williams or Ms. Francis could be reached on the specified date and time set for the telephone conference, and, to date, the Board has not received the required documentation. All telephone numbers the Board has on record for the Appellant have been disconnected.
3. On February 10, 2004, a MEMORANDUM TO THE PARTIES was issued instructing Appellant to respond to the ORDER TO SHOW CAUSE issued by the Board by no later than February 17, 2004. Separate letters addressed to Mr. Robert Williams and Ms. Denise M. Francis were returned with a Return to Sender label which said "attempted not known." On February 9, 2004, the Board again attempted to contact Mr. Williams and Ms. Francis via telephone, however, all four numbers the Board had been given by the Appellant were either disconnected or not in service.

4. The Board has had no contact with the Appellant since January 8, 2004, though Mr. Williams promised to provide additional information by January 26, 2004. The hearing on Appellant's claim of October 7, 2003, is set to begin *Tuesday, March 2, 2004.*

5. Pursuant to Board Rule 31, in cases where there has been a failure to prosecute, we have the discretion to dismiss the appeal:

Dismissal or default for failure to prosecute or defend.

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to paragraph (ii) of this section (Rule 35). If good cause is not shown, the Board may take appropriate action.

38 CFR 1.783(ee).

6. Board Rule 35 gives the Board discretion to issue sanctions and "make any such order as it considers necessary to the just and expeditious conduct of the appeal." 38 CFR 1.783(ii).

7. In this appeal, there have been several previous attempts, both in writing and by telephone conference, to elicit information from Mr. Williams. As of close of business February 25, 2004, the Appellant has not contacted the Board, either by mail or by telephone, in response to the Board's MEMORANDUM of February 10, 2004, its ORDER TO SHOW CAUSE of February 5, 2004 or its PREHEARING ORDER of January 9, 2004.

8. We interpret this lack of response as a concession by the Appellant that it cannot satisfactorily establish the elements of proof necessary to sustain its appeal and its resultant abandonment of this appeal. Accordingly, VABCA-6936, the appeal of Global Cabling & Affiliated Technologies, Inc., *is dismissed pursuant to Board Rule 31.*

IT IS SO ORDERED

DATE: March 1, 2004

PATRICIA J. SHERIDAN
Administrative Judge

WE CONCUR:

RICHARD KREMPASKY
Administrative Judge

GARY J. KRUMP
Chief Administrative Judge
Chairman

SHERIDAN: vb\Q\PAT\BCA CASES\6936 G-CAT.doc (09) 9/07/01 1:12pm Reviewed by:_____

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J. Robert Williams, Chairman of the Board and Principal, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

MEMORANDUM TO THE PARTIES

1. A prehearing conference call was scheduled in the above captioned matter for Tuesday, February 10, 2004, at 10:00 a.m. EST. The Board attempted to reach the Appellant through both Ms. Denise M. Francis, G-CAT's Executive Vice President, and Mr. J. Robert Williams. All the telephone numbers the Board had been given for the Appellant were disconnected and no longer in service, and the Board was unable to connect with the Appellant for the conference call.
2. The Board contacted the Government counsel, Ms. Rheba Heggs, and asked if she had any other telephone numbers for the Appellant. She did not.

3. At this time, the Board has been unable to reach the Appellant via telephone or facsimile since February 5, 2004.
4. The Appellant has not responded to the Board's February 5, 2004 PREHEARING ORDER AND ORDER TO SHOW CAUSE, and missed the filing that was due February 9, 2004.
5. The most recent correspondence from Appellant was received via facsimile on January 8, 2004.
6. The Appellant is reminded that the Board is in the process of considering whether this matter should be dismissed with prejudice pursuant Board Rule 31 for failure to prosecute. Appellant is under an ORDER TO SHOW CAUSE why this matter should not be dismissed by no later than *Tuesday, February 17, 2004*.
7. The Board is copying Ms. Denise M. Francis, G-CAT's Executive Vice President on this Order to ensure the Appellant is on notice of the ORDER TO SHOW CAUSE.

DATE: **February 10, 2004**

PATRICIA J. SHERIDAN
Administrative Judge

cc: Contracting Officer (90C)
(95)

SHERIDAN\vb\Q\PAT\6936 G-CAT.doc (09) 9/07/01 1:12pm Reviewed by:_____

CERTIFIED

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CONTRACT NO. V101(93)P-1543

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J. Robert Williams, Chairman of the Board and Principal, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

**PREHEARING ORDER
AND
ORDER TO SHOW CAUSE**

1. On January 9, 2004, a second PREHEARING ORDER was entered in this appeal due to Global Cabling & Affiliated Technologies, Inc.'s (G-CAT's) failure to provide several previously ordered submissions required by our November 21, PREHEARING ORDER.
2. As of this date the Appellant has failed to make several ordered submissions, including, but not limited to: an Appeal File Supplement, a Witness List, a Joint Comprehensive Prehearing Statement of Facts, Joint Status Reports, a Schedule of Costs and corporate information.

3. The Appellant was admonished several times in writing and in telephone conferences about the possible repercussions arising from its failure to respond to the Board's Orders.
4. The hearing on Appellant's claim of October 7, 2003 is set to begin *Tuesday, March 2, 2004*, in the West Haven, Connecticut area. The time and exact location will be provided at a later date.
5. Mr. Robert Williams will not be allowed to further represent the Appellant as he has failed to provide the information required by our PREHEARING ORDER of January 9 showing that he has standing to represent the Appellant before the Board pursuant to Board Rule 26.
6. G-CAT is ORDERED, by no later than *Monday, February 9, 2004*, to inform the Board who will be representing the company before this Board. In that connection, see Board Rule 26.
7. G-CAT is also ORDERED TO SHOW CAUSE by no later than *Tuesday, February 17, 2004*, why this appeal should not be dismissed with prejudice under Board Rule 31 for failure to prosecute.
8. Board Rule 31, Dismissal Or Default For Failure To Prosecute Or Defend, provides as follows:

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to paragraph (ii) of this section (Rule 35). If good cause is not shown, the Board may take appropriate action.

See generally, National Hockey League v. Metropolitan Hockey Club, Inc., 427 U.S. 639, 640-41 (1976); *Metadure Corp. v. United States*, 6 Cl. Ct. 61 (1984); *Transcriptionists-On-Call*, VABCA No. 3723, 93-2 BCA ¶ 25,670.

9. It should also be noted that a prehearing conference call is scheduled for *Tuesday, February 10, 2004*, at 10:00 a.m. EST. Both parties' representatives are expected to be fully prepared to discuss the facts of the appeal and any other issues that need to be addressed prior to the hearing.

10. The Board is copying Ms. Denise M. Francis, G-CAT's Executive Vice President on this Order to ensure the Appellant is on notice of the ORDER TO SHOW CAUSE.

IT IS SO ORDERED

DATE: **February 5, 2004**

PATRICIA J. SHERIDAN
Administrative Judge

cc: Contracting Officer (90C)
(95)

SHERIDAN\vb\Q\PAT\6936 G-CAT.doc (09) 9/07/01 1:12pm Reviewed by:_____

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J. Robert Williams, Chairman of the Board and Principal, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

**PREHEARING ORDER
AND
MEMORANDUM TO THE PARTIES**

1. On November 21, 2003, a Prehearing Order was entered in this appeal following a conference call discussing the prompt processing of the appeal and the possibility of another appeal being taken from the contracting officer's final decision on Global Cabling & Affiliated Technologies, Inc.'s (G-CAT's) claim of October 7, 2003.
2. The hearing in this matter has been set to begin *Tuesday, March 2, 2004*, firm due dates were set for several items, and both parties were warned that the undersigned would not look favorably on future missed filings or requests for lengthy time extensions.

3. Notwithstanding the Board's Order, the Appellant, without explanation or requesting a time extension, failed to make several of the ordered several submissions.
4. After contacting G-CAT's named representative, Mr. J Robert Williams, to ask about the missing submissions, the Board, on January 8, 2004, received a facsimile from Mr. Williams requesting a time extension until January 26, 2004, for G-CAT to make its appeal and provide other information required by the Order. Mr. Williams represented that because many of the files reside in Connecticut, he would need three weeks to access and compile the information.
5. In considering this request the Board notes that prior to setting the dates in its Order, it reviewed those dates with the parties. The Order clearly states that the Board considers the schedule to be firm. Both parties have received repeated explanations from this Board about the need to meet due dates and follow proper procedures to request a time extension if a due date cannot be met. Once a hearing is scheduled and an order issued it becomes even more imperative that the schedule be followed.
6. Mr. Williams' memorandum makes no excuse for G-CAT's failure to comply with the Order. In fact, the memorandum indicates that the Appellant has made little, if any attempt to comply, essentially ignoring its commitments in this appeal since the November 21, 2003 telephone conference.
7. Such actions by a party are not acceptable or without recourse. Board Rule 35 gives the Board authority to enter an order sanctioning a party if it fails or refuses to obey a Board order. Possible sanctions include prohibiting the disobedient party from introducing into evidence designated documents or testimony as well as refusing to allow the disobedient party to support or oppose designated claims or defenses.
8. Typically, an opposing party requests the Board to impose a specified sanction, but the Board can also issue a sanction on its own initiative. To date, the Government has not made such a request. However, the Board wishes to make clear to both parties that it will not hesitate to refuse documents and/or limit testimony on an issue if it believes that a party would receive an unfair advantage because it failed to provide that document or provide information on an issue (*i.e.*, costs) by the appropriate due date.
9. Since the Government has not requested sanctions, and based on representations made by the Appellant, the Board is willing to grant the requested time extension, until close of business, *Monday, January 26, 2004*, for

the submissions required by the Order. We expect G-CAT to fully review the Order and in the January 26 submission bring itself up to date on the required submission. Also, as promised in G-CAT's request, we expect that submission to contain a cost analysis with supporting documents justifying Appellant's claim. G-CAT should use express delivery services to minimize delays. Please review the docketing notice for the Board's delivery address which is different from its postal address.

10. Regarding the second final decision issued on December 8, 2003, G-CAT indicated during a conference call that it intended to appeal the final decision. The Board notes that pursuant to the *Contract Disputes Act of 1978*, G-CAT has 90 days to make its appeal. While the Board indicated that appeal needed to be made expeditiously, it did so to enable consolidation of the second appeal with VABCA No. 6936. G-CAT is reminded that it still has 90 days to appeal the December 8 final decision to the Board, and that taking the full time will only affect consolidation. If due to time constraints the appeals cannot be consolidated VABCA No. 6936 will go forward to hearing on March 2, 2004.

11. In the event the parties wish to consolidate these matters for purposes of hearing, they should approach the Board with a plan on how they wish to handle the pleadings phase of the case and whether they are willing to waive the complaint and answer. However, even if the pleadings are waived, the Appeal File should be fully supplemented by both parties by no later than *Wednesday, February 4, 2004*, which is the date applicable to Appeal File supplements for VABCA No. 6936. The parties shall coordinate their Appeal File supplements to insure proper numbering of exhibits. The parties may not supplement the Appeal File after *Wednesday, February 4, 2004*, unless good cause is shown.

12. We note that the Government has raised questions regarding Mr. J. Robert Williams' standing to represent the Appellant before the Board. Board Rule 26 provides that "a corporation [may appear before the Board] by one of its officers" or "by an attorney at law." Proof of Mr. Williams' standing to serve as G-CAT's representative is an issue that needs to be addressed immediately. If it is determined that Mr. Williams is not eligible to represent G-CAT at the hearing, the Board will not look favorably on a request to extend the hearing date, particularly since it has repeatedly asked G-CAT to clarify this issue and it has failed to do so. The Board urges G-CAT to make sure this issue is resolved as quickly as possible, and is copying Ms. Denise M. Francis on this Order to place G-CAT on notice of this potential problem and to warn G-CAT that it will not look favorably on a request to delay the hearing in this matter in the event Mr. Williams is disqualified as Appellant's representative.

13. The hearing in this matter will be held in the West Haven area unless the parties jointly indicate they would prefer to have the appeal heard at some other location. The Board will be making arrangements for a hearing facility soon so if the parties wish another location considered they should contact the Board immediately.

14. The parties are reminded that all other dates established by the November 21, 2003 Order remain in effect.

15. A Joint Status Report in this matter is due *Wednesday, February 4, 2004*. In that report the parties should, among other things, discuss whether consolidation is appropriate and indicate whether the Government's concerns about Mr. Williams' representing G-CAT have been resolved. If concerns remain they should be briefed. The Joint Status Report should raise any outstanding issues that a party believes need to be resolved prior to hearing.

16. A prehearing conference call will be held on *Tuesday, February 10, 2004*, at 10:00 a.m. EST to discuss the Joint Comprehensive Prehearing Statement of Facts, the information in the Joint Status Report, and to go over any other issues that need to be addressed prior to hearing.

17. If either party believes that it needs more discussion on the November 21, 2003 Order, this Order, or any matter pertinent to the processing of these matters, they should contact Ms. Valerie Barlow at the Board to request that a conference call be scheduled.

IT IS SO ORDERED

DATE: **January 9, 2004**

PATRICIA J. SHERIDAN
Administrative Judge

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VABCA-6936

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Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

**PREHEARING ORDER
AND
MEMORANDUM TO THE PARTIES**

1. On November 20, 2003, a conference call was convened between the undersigned, Ms. Rheba Heggs, representing the Government, and Mr. Robert Williams, representing the Appellant. The date for the hearing in this appeal was established and other matters pertaining to these proceedings were discussed and resolved.
2. In the conference, the Government indicated it was in receipt of G-CAT's claim of October 7, 2003 and would issue a final decision on that claim by no later than *Thursday, December 18, 2003*.
3. In the event Appellant elects to appeal the final decision, it should do so as expeditiously as possible so that the appeal can be consolidated with VABCA - 6927 for purposes of processing.

4. The Government's Answer to Appellant's Complaint is due *Thursday, December 18, 2003*.
5. Appellant is to resubmit its Rule 4 Appeal File Supplement by no later than *Thursday, December 18, 2003*. Appellant shall transmit to the Board (with copies to the Government Trial Attorney) any documents *not contained* therein which the Appellant considers to be relevant to the appeal. Please index and tab any documents submitted in chronological order beginning with tab 500 and do not use ring binders.
6. Appellant shall review its documents to determine if it has a complete copy of Contract No. V101(93)P-1543. Appellant shall submit the documents it is able to locate by no later than *Thursday, December 18, 2003*, as part of its Rule 4 Appeal File Supplement.
7. Appellant agreed to submit to Government and the Board G-CAT's Articles of Incorporation and other corporate information showing its current Board of Directors and corporate offices. This information shall be provided no later than *Monday, December 1, 2003*.
8. In the conference, the Board explained that it would issue a comprehensive PREHEARING ORDER to schedule events leading to the commencement of the hearing set to begin on *Tuesday, March 2, 2004* and to last through *Wednesday, March 3, 2004*, in West Haven, Connecticut. The instructions in this ORDER are designed to insure that necessary prehearing actions are accomplished in a timely fashion, and are as follows:

INSTRUCTIONS FOR PREHEARING ACTIONS

A. Discovery

- (1) The last day for submission of discovery requests in this appeal shall be *Friday, December 12, 2003*.
- (2) No extension to the discovery cut-off date set forth above will be granted except for good cause shown. If such extension is desired, the party desiring the extension should make application to the Board, after notice to the other party stating the extent of the discovery requested and a schedule for accomplishing such discovery.

- (3) Responses to discovery requests are due by no later than *Friday, January 9, 2004*.

B. Appeal File Documents

- (1) Supplements to the Appeal File by either Party may be submitted to the Board and to the other party until *Wednesday, February 4, 2004*. Any objections, pursuant to Board Rule 4, to such supplements must be received by the Board and the other party by *Friday, February 13, 2004*. The parties may not supplement the Appeal File after February 13, 2004 unless good cause is shown.
- (2) As provided by Rule 4, Appeal File documents objected to will be removed from the Appeal File subject to reintroduction as hearing exhibits. Appeal File documents not objected to will be considered part of the formal record.
- (3) The Board does not expect trivial or merely technical objections with respect to the admissibility of Appeal File documents.

C. Joint Comprehensive Prehearing Statement of Facts

- (1) The Parties shall confer for the purpose of preparing a JOINT COMPREHENSIVE PREHEARING STATEMENT OF FACTS.
- (2) The JOINT COMPREHENSIVE PREHEARING STATEMENT OF FACTS shall set forth, in separately numbered paragraphs, **all** facts that the parties believe are necessary to the resolution of the appeal. The statement shall include both the controverted and uncontroverted facts; paragraphs consisting of uncontroverted facts shall be identified by an asterisk. Paragraphs containing a controverted or denied fact shall be annotated with a parenthetical reference to the Appeal File, proposed witnesses, and/or exhibits to be offered in support of the controverted facts.
- (3) The Board will consider the uncontroverted facts as STIPULATIONS OF FACT and will enter such stipulations into the record as a JOINT EXHIBIT at the beginning of the hearing.
- (4) The JOINT COMPREHENSIVE PREHEARING STATEMENT OF FACTS shall be submitted to the Board on or before *Wednesday, February 4, 2004*.

D. Quantum

- (1) Currently, the only matter pending before the Board is the propriety of the default termination. However, the parties have indicated that they may wish to have G-CAT's October 7, 2003 claim consolidated with VABCA - 6936. If that occurs, the Board will decide issues of both entitlement and quantum in this appeal. The parties are directed to confer for the purposes of attempting to reach an agreement to permit the parties to stipulate to the quantum amount.
- (2) The October 7, 2003 claim is a monetary claim made by the Appellant. In the event it is appealed and consolidated with VABCA - 6936, the following instructions pertaining to submission of schedules of costs apply to Appellant's claim.
- (3) In the absence of an agreement stipulating quantum, it is necessary that each party's quantum claim and the other party's response thereto and the bases for each be set forth in an easily understandable format. The instructions below apply only if the parties are unable to stipulate to the quantum amount.
- (4) On or before *Friday, January 9, 2004*, the Appellant shall furnish the Board and the Government a SCHEDULE OF COSTS it claims are due and owing in the appeal. The SCHEDULE OF COSTS shall be in a schedule or spreadsheet format and shall include the following:
 - a. A separate listing of each cost item with any component of each cost item separately listed;
 - b. A computation as to how each cost item was arrived at;
 - c. The identification of the specific books, records, accounting data or other documents supporting the cost; and,
 - d. The identity of each witness who will be called to testify with respect to any item of cost.
- (5) On or before *Wednesday, February 4, 2004*, the VA shall furnish the Board and the Appellant its RESPONSE TO APPELLANT'S SCHEDULE OF COSTS. If the Government verifies any items or figures in the SCHEDULE OF COSTS, it shall so report in its RESPONSE. Such a report, unless otherwise admitted or stipulated to, shall not be deemed an admission by the party of anything more than the accuracy of the SCHEDULE OF

COSTS as reflecting the contents of books and records and the allocations and computations based thereon. If a party fails to verify any of the items in the SCHEDULE OF COSTS, the party's RESPONSE shall specify each such item to which it takes exception with a complete explanation of the reason for such exception. In the case where a party proposes alternate amounts, the party shall submit an ALTERNATE SCHEDULE OF COSTS for such items in the same manner as prescribed for the SCHEDULE OF COSTS in D(4) above. A party shall be deemed to have waived challenge to the accuracy of all items in the SCHEDULE OF COSTS that are not specified in its response as the subject of exceptions.

E. Exhibit List

- (1) On or before *Wednesday, February 4, 2004*, each party shall serve upon the other party copies of all documents that it intends to offer into evidence at the hearing, together with a list of any physical exhibits to be offered. The Board should be provided with a copy of the forwarding letter and a list of exhibits; the Board's copy of the exhibits should be retained for submission at the hearing. **The exhibits should not duplicate any documents contained in the Appeal File.**
- (2) It would be helpful if the proposed documentary exhibits are arranged in either a chronological or subject matter sequence, numbered (A-1, A-2, etc. for the Appellant, G-1, G-2, etc. for the Government) tabbed, indexed, and bound in some easily usable fashion; exhibits will not be provided to the Board in three ring binders. Provision should be made for photographing or reducing outsize or physical exhibits for easy retention by the Board in the record.
- (3) Each party shall provide the other party and the Board with any unresolved objections to the admissibility of any exhibit to be offered by the other party by *Wednesday, February 11, 2004*.
- (4) Any documents not exchanged or other exhibits not listed will not be received into evidence unless good cause is shown for the failure to exchange or list them.
- (5) Any exhibits listed and not objected to will be admitted into the record at the beginning of the hearing.

F. Witness Lists

- (1) On or before *Wednesday, February 4, 2004*, each party shall send the other party and the Board a list of witnesses it intends to call at the hearing. Include for each witness so listed: a) his or her position at the time of the events in the dispute; b) a brief summary of the subject matter of his or her testimony; and, c) an estimate of the time required for his or her testimony (including cross-examination). This requirement does not apply to witnesses who are to be called solely for the purpose of impeachment or rebuttal.
- (2) If a party intends to offer the testimony of an expert witness, such witness shall be identified to the other party by *Friday, December 12, 2003*. If a witness will testify as an expert, provide the following information to the other party by *Friday, December 12, 2003*: a) his or her present location; b) any present or past relationship of any kind to the party calling the witness; c) expected duration of the witnesses direct testimony; d) a detailed narrative summary of the witness' planned testimony, including a complete listing of all documents, data, and authorities to be relied upon by the witness in his or her testimony, or, alternatively, submit a complete written statement of the expert's direct testimony to be received into evidence in lieu of direct testimony; and, e) a resume or statement of qualifications of each expert witness suitable for introduction into evidence in lieu of direct testimony as to his or her qualifications. If the alternate written statement of the complete testimony of the expert witness is used, the witness, after he or she is sworn at the hearing, may adopt the written statement as his or her testimony, after being given the opportunity to highlight major aspects of his or her expert testimony before cross-examination takes place and the written statement will be received into evidence. Notwithstanding the cut-off date for discovery requests set forth elsewhere in this ORDER, deposition of the other party's expert shall be allowed.
- (3) Each party shall provide the other party and the Board with any unresolved objections to the competency or qualifications of the other parties' witnesses by *Friday, January 16, 2004*.
- (4) Any witness not listed will not be permitted to testify unless good cause is shown for failure to list him or her. The Board will be especially strict if it believes a party is attempting to gain advantage by presenting a surprise witness. It is expected that any witness listed will be present at the hearing; the party listing the witness shall have the obligation to take the necessary steps to insure the witness' presence.

- (5) If a subpoena will be necessary for discovery, any request for subpoena must be filed with the Board on or before *Friday, January 16, 2004*. The Board directs the parties' attention to Rule 21 (C) with regard to requests for subpoenas.

G. Dispositive Motions

Any motion, the granting of which would be dispositive of this appeal, will not be considered unless such motion is filed on or before *Friday, January 16, 2004*.

H. Conferences

- (1) The Board urges the parties to meet or converse to clarify issues, exchange information, develop stipulations, agree on scheduling, and to discuss settlement.
- (2) Either party may request a conference of both parties with the Board, to be held in person or by telephone, as determined by the Board, if the parties consider it would help resolve preliminary matters. The Board may also schedule conferences on its own motion when it determines they may be beneficial.
- (3) The Board will convene a final telephonic prehearing conference at 10:00 AM, Eastern Time, *Tuesday, February 3, 2004*. The parties should confer with each other prior to the conference to discuss any outstanding issues they believe should be addressed prior to the hearing.

I. Hearing

- (1) The hearing is currently scheduled for two days, *Tuesday, March 2, 2004*, through *Wednesday, March 3, 2004*.
- (2) In the event of the unexcused absence of a party or its counsel, the hearing will proceed and the case will be regarded as having been submitted on the record on the part of the absent party.
- (3) Each party is expected to present a brief opening statement at the commencement of the hearing. The statement should include identification of the issues, a summary of the facts which the party intends to prove, identification of the witnesses in the order they will be called and the particular factual matters the party intends to establish by each

witness. The statement should include a brief summary of the legal theories of the parties' respective positions. Each party will be allowed 15 minutes to make its opening statement.

9. The Board considers the schedule established in this ORDER to be firm. Extensions or changes in the schedule will be made only upon good cause. A party wishing to change the schedule or otherwise amend this ORDER shall consult with opposing counsel before submitting a written request to the Board for such change. Any such request shall include the reasons for the request, and whether the opposing counsel concurs or objects to the request. A copy of the written request shall also be provided to the opposing counsel.

IT IS SO ORDERED

DATE: November 21, 2003

PATRICIA J. SHERIDAN
Administrative Judge

SHERIDAN: vb\Q\PAT\6936 Global.doc (09) 9/07/01 1:12pm Reviewed by:_____

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Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

**MEMORANDUM TO THE PARTIES
AND
ORDER TO SHOW CAUSE**

1. On July 9, 2003, a conference call was conducted between the undersigned, Ms. Rheba Heggs, representing the Government, and Mr. Robert Williams, representing the Appellant.
2. The undersigned expressed concern about the Appellant's failure to meet due dates set by the Board and a general failure to make progress in processing this appeal. The Appellant agreed to meet various dates as set forth in our Memorandum of July 9, 2003.

3. To date it appears that the Appellant has failed to provide any of the submissions required by the July 9 Memorandum.

4. Accordingly, the Board grants the Appellant until *Monday, October 6, 2003* to provide *each and every submission* required by the July 9 Memorandum including a copy of its claim to the contracting officer, or SHOW CAUSE why this appeal should not be dismissed with prejudice under Board Rule 31 for failure to prosecute.

IT IS SO ORDERED

DATE: **October 2, 2003**

PATRICIA J. SHERIDAN
Administrative Judge

SHERIDAN: vb\Q\PAT\6936 Global.doc (09) 9/07/01 1:12pm Reviewed by:_____

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VA MEDICAL CENTER
WEST HAVEN, CONNECTICUT

J. Robert Williams, Chairman of the Board and Principal, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

MEMORANDUM TO THE PARTIES

1. A conference call was conducted on July 9, 2003 between the undersigned, Ms. Reba Heggs representing the Government and Mr. Robert Williams representing the Appellant.
2. The undersigned expressed concern about the Appellant's failure to meet due dates set by the Board and a general failure make progress in processing this appeal. The Appellant agreed to meet the following dates as set forth below.
3. Appellant's Complaint and Rule 4 Appeal File Supplement is due by no later than *Wednesday, July 30, 2003*. In regards to this filing please follow the instructions provided in preceding Board memoranda.
4. Appellant agrees that it will submit its claim to the contracting officer by no later than *Wednesday, July 30, 2003*.

5. The parties are required to confer and provide an agreed upon discovery schedule that outlines and provides dates for all proposed discovery contemplated by the parties.

6. A conference call is scheduled for *Tuesday, August 19, 2003*, at 10:00 AM Eastern Time. The parties should confer with each other prior to the conference to discuss any outstanding issues they believe should be addressed during the conference call and be prepared to report to discuss the progress made on this appeal.

DATE: **July 9, 2003**

PATRICIA J. SHERIDAN
Administrative Judge

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GLOBAL CABLING & AFFILIATED
TECHNOLOGIES, INC.

VABCA-6936

CONTRACT NO. V101(93)P-1543

VA MEDICAL CENTER
WEST HAVEN, CONNECTICUT

Denise M. Francis, Executive Vice President, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

MEMORANDUM TO THE PARTIES

1. A conference call was conducted on June 4, 2003 between Ms. Reba Heggs representing the Government, Mr. Robert Williams representing the Appellant, and the undersigned.
2. The undersigned informed Mr. Williams that the Board expected to receive his Notice of Appearance by no later than *Friday, June 6, 2003*. In that connection, see Board Rule 26.
3. On May 2, 2003, the Board received from the Government the Appeal File in the captioned appeal, as required by Board Rule 4, consisting of 10 indexed and tabbed exhibits. In a covering memorandum, Government counsel informed us that a copy of the file had been forwarded to Appellant.
4. *Rule 4 Appeal File Supplement*: Appellant's attention is directed to that portion of Board Rule 4 which provides that, within 30 days of receipt of the appeal file, the Appellant shall transmit to the Board (with copies to the Government Trial

Attorney) any documents *not contained* therein which the Appellant considers to be relevant to the appeal. Please index and tab any documents submitted in chronological order beginning with tab 500 and do not use ring binders. The supplement, if any, is due by no later than *Tuesday, July 8, 2003*.

5. Appellant's attention is directed to Rule 6(1) which requires that its Complaint be filed within 30 days after receipt of the docketing notice. To date, no Complaint has been received. Accordingly, the Complaint should be received by the Board by no later than *Tuesday, July 8, 2003*.

6. All documents filed with the Board should be on letter-size paper. For the parties' convenience, documents may be filed via the Board's fax machine at (202) 275-5381.

7. A conference call is scheduled for *Wednesday, July 9, 2003*, at 10:00 AM Eastern Time to discuss the status of this appeal.

DATE: **June 5, 2003**

PATRICIA J. SHERIDAN
Administrative Judge

GLOBAL CABLING & AFFILIATED
TECHNOLOGIES, INC.

VABCA-6936

CONTRACT NO. V101(93)P-1543

VA MEDICAL CENTER
WEST HAVEN, CONNECTICUT

Denise M. Francis, Executive Vice President, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

MEMORANDUM TO THE PARTIES

1. A conference call was conducted on May 2, 2003 between Ms. Heggs representing the Government and Mr. Robert Williams representing the Appellant.
2. The undersigned informed Mr. Williams that the Board had Ms. Denise Francis as the Appellant's representative. Mr. Williams was instructed to file a written notice of appearance with the Board pursuant to Board Rule 26 if it wished to change its representative. Such a notice should be filed immediately and should include Mr. Williams' position in the company.

3. A conference call is scheduled for *Wednesday, June 4, 2003*, at 10:00 AM Eastern Time to discuss the status of this appeal.

4. All other due dates remain the same.

DATE: **May 5, 2003**

PATRICIA J. SHERIDAN
Administrative Judge

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GLOBAL CABLING & AFFILIATED
TECHNOLOGIES, INC.

CONTRACT NO. V101(93)P-1543

VABCA-6936

VA MEDICAL CENTER
WEST HAVEN, CONNECTICUT

Denise M. Francis, Executive Vice President, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

MEMORANDUM TO THE PARTIES

1. The parties are advised that Administrative Judge Patricia J. Sheridan has been assigned as Presiding Judge in this appeal. All future correspondence in this appeal shall be addressed to her attention and all previous orders and directions of the Board remain in effect.
2. The Board is in receipt of the Government's request to continue the suspension of this matter suspended an additional 30 days to accomplish a settlement.
3. While it is our practice to encourage the parties to discuss settlement, we are also mindful of the need to begin processing this appeal. Respondent's April 14, 2003, memorandum does not indicate that the parties have made any significant progress toward settlement since this matter was docketed on December 4, 2002.
4. Accordingly, the Respondent's request to continue the suspension of this matter is denied.

5. A conference call is scheduled for *Wednesday, April 30, 2003*, at 10:00 AM Eastern Time to discuss the processing of this appeal.
6. Appellant is to file its Complaint with the Board on or before *Wednesday, May 7, 2003*.
7. Respondent is to submit its appeal file to the Board and the Appellant on or before *Wednesday, May 7, 2003*.

DATE: **April 16, 2003**

PATRICIA J. SHERIDAN
Administrative Judge

GLOBAL CABLING & AFFILIATED
TECHNOLOGIES, INC.

CONTRACT NO. V101(93)P-1543

VABCA-6936

VA MEDICAL CENTER
WEST HAVEN, CONNECTICUT

Denise M. Francis, Executive Vice President, Global Cabling & Affiliated Technologies, Inc., West Haven, Connecticut, for the Appellant.

Rheba C. Heggs, Esq., Government Trial Attorney; *Philip S. Kauffman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

MEMORANDUM TO THE PARTIES

1. On January 7, 2003, the Parties requested suspension of this appeal for 90 days. They state that they have initiated negotiations to resolve the issues of this appeal and may request the Board's assistance using Alternate Dispute Resolution.
2. By no later than *Monday, April 14, 2003*, the parties are to either comply with the Board's December 4, 2002 Notice of Docketing or notify the Board that they wish to use ADR. If the parties decide to use ADR they should provide several proposed dates and a location.

DATE: **January 23, 2003**

GUY H. MCMICHAEL III
Chief Administrative Judge

December 9, 2002

(09)

Denise M. Francis
Executive Vice President
Global Cabling &
Affiliated Technologies, Inc.
P.O. Box 1285
New York, NY 10035

Office of General Counsel (025)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Contracting Officer (90C)
Department of Veterans Affairs
Connecticut Healthcare System
950 Campbell Avenue
West Haven, CT 06516

VABCA-6936
Global Cabling & Affiliated
Technologies, Inc.
Contract No. V101(93)P-1543
VAMC, West Haven, Connecticut

NOTICE OF DOCKETING

The appeal of Global Cabling & Affiliated Technologies, Inc., from a Contracting Officer's Termination for Default dated August 29, 2002, was received and docketed on December 2, 2002, and assigned docket number VABCA-6936.

In future correspondence, reference should be made to the assigned docket number.

The parties should take notice that correspondence sent via *U.S. Mail* should be addressed as follows:

Department of Veterans Affairs
Board of Contract Appeals (09)
810 Vermont Avenue, NW
Washington, DC 20420

Use of the Board's mail symbol (09) is important to internal mail delivery. However, for any correspondence sent via *private express carriers* the Board's address is as follows:

Department of Veterans Affairs
Board of Contract Appeals
1800 G Street, NW - Suite 545
Washington, DC 20006

A COPY OF THE BOARD'S RULES IS ENCLOSED FOR THE PARTIES' INFORMATION. 38 C.F.R.

§ 1.783. These Rules are applicable to all appeals processed under the *Contract Disputes Act of 1978* (41 U.S.C. § 601 *et seq.*). Appellant's attention is directed to Rule 6(1) which requires that its Complaint be filed within 30 days after receipt of this docketing notice. Accordingly, the Complaint should be received by the Board by *Monday, January 13, 2003*.

All documents filed with the Board should be on letter-size paper. For the parties' convenience, documents may be filed via the Board's fax machine at (202) 275-5381.

A *Notice Regarding Alternative Methods of Dispute Resolution* and a copy of the Board's Interim Procedures for processing *Equal Access to Justice Act* applications are also enclosed for the parties' information. Additional information concerning the operation and procedures of the Board may be found at our web site located at www.va.gov/bca. The Board's e-mail address is vacobca@mail.va.gov.

Appellant should let us know who will be representing the company before this Board. In that connection, see Rule 26. The Department of Veterans Affairs should also notify the Board and the Appellant within thirty days as to who will be representing the Government in this appeal.

Rule 4 prescribes the duties of the Contracting Officer in connection with assembling and forwarding the appeal file. The file, properly arranged in chronological order, numbered sequentially, tabbed, and indexed to identify its

contents, is to be forwarded by the Contracting Officer to the Office of General Counsel (025) for submission to the Board. Please do not use ring binders.

The appeal file is to be lodged with the Board and Appellant on or before *Monday, January 13, 2003*. The Contracting Officer is requested, therefore, to forward the originals, legible facsimiles or authenticated copies of all documents specified in Rule 4 to the Office of General Counsel in ample time for that office to file said documents with the Board by the close of business on Monday, January 13, 2003.

GUY H. MCMICHAEL III
Chief Administrative Judge

Cc: (95)

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Denise M. Francis Executive Vice President Global Cabling & Affiliated Technologies, Inc. P.O. Box 1285 New York, NY 10035	VABCA-6936 Global Cabling & Affiliated Technologies, Inc. Contract No. V101(93)P-1543 VAMC, West Haven, Connecticut
Contracting Officer (90C) Department of Veterans Affairs Connecticut Healthcare System 950 Campbell Avenue West Haven, CT 06516	J. Robert Williams Chairman of the Board and Principal Global Cabling & Affiliated Technologies, Inc. P.O. Box 1285 NEW YORK, NY 10035
Department of Veterans Affairs Board of Contract Appeals (09) 810 Vermont Avenue, NW Washington, DC 20420	

